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18 Attorneys for Plaintiff
19 SEA PRESTIGIO, LLC

20 SEA PRESIDIO, LLC, a Delaware
21 limited liability company,

22 Plaintiff,

23 v.

24 M/Y TRITON, Republic of Marshall
25 Islands (Official No. 70070), Its
Engines, Machinery, Appurtenances,
etc., *In rem*; SPEARFISH
VENTURES, LTD., a British Virgin
Islands Company; FBP
INVESTMENTS, LP, a Delaware
limited partnership; JAMES P.
BALDWIN, as co-trustee of the
James P. Baldwin Trust No. 1 and
Nancy L. Baldwin Trust No. 1;
NANCY L. BALDWIN, as co-trustee
of the James P. Baldwin Trust No. 1
and Nancy L. Baldwin Trust No. 1;
CACHAL INVESTMENTS, S. DE
R.L. DE C.V., a Mexican corporation,
In Personam, and DOES 1-10,

26
27 Defendants.
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Glaser Weil Fink Jacobs
Howard Avchen & Shapiro LLP

12 UNITED STATES DISTRICT COURT

13 FOR THE SOUTHERN DISTRICT OF CALIFORNIA

14 CASE NO. 3:10-CV-02412-BTM (AJB)

15 **IN ADMIRALTY**

16 **PLAINTIFF'S STATUS REPORT**

17 Complaint Filed: November 23, 2010

18 Action Stayed: April 11, 2011

19 Trial Date: May 9, 2011 (vacated)

1 Plaintiff Sea Prestigio, LLC (“Plaintiff”) submits the following status report to
 2 inform the Court that on February 17, 2012—ten days before the scheduled trial in the
 3 related action entitled *FBP Investments, LP, et al. v. Sea Prestigio, LLC, et al.*,
 4 Orange County Superior Court, Case No. 30-2010-00420336 (the “State Action”)—
 5 Defendants filed a “motion *in limine*” to have this dispute resolved by a private judge
 6 in a judicial reference proceeding rather than before a jury in state court,
 7 notwithstanding repeated representations by Defendants that they sought a jury trial
 8 and desired swift resolution.

9 On April 11, 2011, two weeks before the April 25, 2011 hearing on the parties’
 10 cross-motions for summary judgment, and a month before the *expedited* trial of any
 11 remaining claims and issues in this action (May 9, 2011), the Court granted
 12 Defendants’ motion to stay this action so that Defendants (as plaintiffs in the State
 13 Action) could purportedly have *the state court* adjudicate all state law claims, issues
 14 and defenses between the parties in the State Action. [Stay Motion, p. 10, lines 10-
 15 14; Docket No. 44-1 (“Once the state court renders a decision on the state law claims,
 16 the stay can be lifted and the Federal Action can resume to determine the remedy, if
 17 necessary [s]taying this Federal Action conserves this Court’s time and
 18 resources, while the state court determines claims under its purview.”).]

19 In its order, the Court underscored the importance of a speedy resolution,
 20 expressly requesting “that the Orange County Superior Court issue an expedited case
 21 management schedule that would allow it to decide this case as quickly as possible.”
 22 [April, 11, 2011 Order re Application to Stay Action, p. 8.] Before the Court ordered
 23 the stay, Defendants did not disclose any intention to have their claims adjudicated by
 24 a judicial referee rather than a state court and, as a result, Plaintiff was unable to
 25 address this issue in opposition to Defendants’ stay motion. Indeed, Defendants made
 26 repeated representations that this case would be tried by a state court jury.

27 In the State Action, the parties litigated for more than fifteen months,
 28 completing percipient witness as well as expert discovery, with the state court

1 receiving and ruling on motions for the summary judgment. Both parties consistently
 2 and repeatedly demanded a jury trial in both this action and the State Action. [See,
 3 e.g., Defendants' Verified Answer, Docket 34.] The court in the State Action set a
 4 trial date for February 26, 2012.

5 On February 17, 2012, ten days before the scheduled trial, on the date when
 6 Defendants served their motions *in limine* in the State Action, Defendants served a
 7 motion to enforce the judicial reference provision in the parties' loan agreement
 8 pursuant to California Code of Civil Procedure Section 638. This was the first time
 9 that Defendants raised the prospect of judicial reference in this litigation. The court
 10 in the State Action requested briefing on the judicial reference issue and set a new
 11 trial date on March 26, 2012. On March 23, 2012, the state court heard and granted
 12 Defendants' motion for judicial reference over Plaintiffs' opposition.

13 Thereafter, the parties selected the Hon. Edward J. Wallin (Ret.) as the judicial
 14 referee to resolve all claims pursuant to their loan agreement and California Code of
 15 Civil Procedure § 638 *et seq.* To the extent that this selection process does not result
 16 in swift and expeditious resolution of the disputes, Plaintiff reserves its right to seek a
 17 lift of the stay and to request a trial date in this Court to resolve all claims between the
 18 parties.

19 Dated: April 3, 2012

20 Respectfully submitted,

21 GLASER WEIL FINK JACOBS,
 HOWARD AVCHEN & SHAPIRO LLP

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 23
 24 By: /s/ G. Jill Basinger
 25 Patricia L. Glaser
 26 G. Jill Basinger
 27 John K. Ly
 28 Attorneys for Plaintiff
 SEA PRESTIGIO, LLC

CERTIFICATE OF SERVICE

2 The undersigned hereby certifies that all counsel who have consented to
3 electronic service are being served with a copy of the foregoing document via the
4 Southern District of California CM/ECF system on April 3, 2012.

/s/ James T. Grant
James T. Grant

Glaser Weil Fink Jacobs
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